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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Robert A. Southworth

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10/06/2006

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EXAMINER

FISHER, MICHAEL J

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/037,389	Applicant(s) SOUTHWORTH ET AL.	
	Examiner Michael J. Fisher	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-76 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-76 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 36 recites the limitation "claim 37" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Note: For examination purposes, it will be assumed that the claim depends from claim 32 and not claim 37.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 6,411,943 to Crawford.

As to claims 1,8,15,27, Crawford discloses a program builder system maintained at a supplier's place of business (200, 210, 214 as best seen in fig 2), distributing software to a customer (fig 2), making available a model number data page to a customer (col 40, line 66-col 41, line 6), receiving a model number request from a customer (fig 8A), transmitting the program code to the customer (fig 14A).

Crawford does not, however, teach using the system for timer modules or specifically state that the customer's computer is at the place of business. Timer modules are old and well known in the art being merely software. Therefore, it would have been obvious to one of ordinary skill in the art to use the system as disclosed by Crawford to sell timer-modules as timer-modules are software and Crawford discloses this as a good way to sell software (such as anti-virus software (200) and other software (212)) and it further would have been obvious for the customer's computer to be at the place of business as computers are well known to be useful for business applications.

As to claims 49,57, the location of the system would not make it patentably distinct.

As to claims 2,29, Crawford discloses sending the code via a network communication (fig 3).

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As to claims 3,4,12,50,61, the system is done on a computer (fig 3) and the examiner takes Official Notice that personal computers (PCs) are old and well known in the art. Therefore, it would have been obvious to use a PC at the supplier as PCs are less expensive than large mainframe computers.

As to claims 5,17,51, as the information is displayed on a computer, it would be electronically displayed.

As to claims 6,52, it is old and well known to print material, therefore, it would have been obvious to print a copy of the sales form to maintain a hard copy in case of computer error.

As to claim 7, the steps would happen simultaneously as the computer would, of necessity, be turned on and as such, it would receive and load data simultaneously.

As to claim 9, it would be obvious to one of ordinary skill in the art to include an initiate circuit as these are well known to be useful in timer modules.

As to claim 10, analog-to-digital (A/D) circuits are old and well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to include a power supply circuit to enable the user to use the timer to control a power supply, such as turning lights on and off while away on vacation.

As to claim 11, analog-to-digital (A/D) circuits are old and well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to include an A/D converter to enable the user to use the timer to control a power supply, such as turning lights on and off while away on vacation.

As to claim 13, the program builder includes an in-circuit device programmer (inherently in that it does program the device by downloading software and upgrading software).

As to claims 14,63, the program builder system comprises an emulator (fig 9).

As to claims 16,19,28, these are all well known aspects of A/D converters controlled by timer-modules, therefore, it would have been obvious to include them if the customer ordered them and further, to have them on one housing so as to keep the system less complicated.

As to claims 18,56,64,68,72, Crawford discloses an online service (col 14, lines 31-32) that would inherently include a webpage or pages.

As to claim 20, the model number would inherently designate an operating parameter as it only designates one model.

As to claim 21, the parameter reader unit would be the monitor of the computer that displays all information.

As to claim 22, it would have been obvious to display a reprogramming status if the computer is being reprogrammed.

As to claim 23, the program builder would inherently be able to parse out characters as it must read them in order to correlate with the proper model.

As to claim 24, Crawford discloses a plurality of different input windows (fig 8A).

As to claim 25, the customer chooses, or 'builds' the model required and the system then builds it, thereby meeting the limitations as claimed.

As to claim 26, it is old and well known for timer modules to have subfunctions, therefore, it would have been obvious to include a subfunction ordering table to allow the customer to purchase the exact timer module required.

As to claim 30, it would have been obvious to one of ordinary skill in the art to ship a transportable storage medium (such as a compact disk) as this is a well-known way to disseminate software.

As to claim 31, it would be obvious to one of ordinary skill in the art to include such elements if they customer orders them.

As to claims 32,34, these are all well known aspects of A/D converters controlled by timer-modules, therefore, it would have been obvious to include them if the customer ordered them.

As to claim 33, it would be inherent that the page includes product information else the customers could not know what they are buying.

As to claim 35, the location of the system would not make it patentably distinct.

As to claim 36, as best understood, it would have been obvious to one of ordinary skill in the art to include a plurality of time delays if the customer ordered them.

As to claims 37,48,58-60 it would have been obvious to one of ordinary skill in the art to include such features if the customer ordered them.

As to claims 39-47,53,54,65-67,69-71,74,75,76, Crawford teaches updating software (214 in fig 2), thereby meeting the limitations as claimed.

As to claim 62, the device includes an in-circuit device programmer as it programs devices and this is done in-circuit (fig 9).

As to claim 73, as the information is displayed on a computer, it would be electronically displayed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Fisher whose telephone number is 571-272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Fisher



Patent Examiner
GAU 3629

MF 
10/02/06